

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MARK J GOSSETT,

Plaintiff,

v.

JASON BENNETT,

Defendant.

Case No. 3:24-cv-05491-TMC

ORDER ADOPTING REPORT AND  
RECOMMENDATION

The Court, having reviewed the Report and Recommendation of Magistrate Judge Grady J. Leupold, objections to the Report and Recommendation, if any, and the remaining record, does hereby find and ORDER:

(1) The Court adopts the Report and Recommendation.

a. The Court has conducted de novo review of the Report and Recommendation based on Mr. Gossett's objections. Fed. R. Civ. P. 72(b); *United States v.*

*Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

b. Mr. Gossett's objections do not address the reason Judge Leupold

recommended dismissal: that this action is duplicative of another federal

habeas action currently pending in this Court. This Court has conducted an

1 independent review of the record and agrees with Judge Leupold that this  
2 action is duplicative of the habeas petition filed as *Gossett v. Bennett*, Case  
3 No. 3:24-cv-05131-RAJ (filed Feb. 22, 2024). For the reasons explained in the  
4 Report and Recommendation, this Court agrees that this action should be  
5 construed as one brought under 28 U.S.C. § 2254, is duplicative of the  
6 previously-filed habeas petition, and must be dismissed without prejudice.

7 None of Petitioner's objections change this outcome.

8 (2) Petitioner's federal habeas Petition, which is duplicative of another habeas petition  
9 pending before this Court, is dismissed without prejudice.

10 (3) Petitioner's IFP Motion (Dkt. 1) and his other pending Motions and Requests  
11 (Dkts. 1-5, 1-8, 5, 6, 7, 11, 13, 15) are denied as moot.

12 (4) A certificate of appealability is denied in this case.

13 (5) The Clerk is directed to send copies of this Order to Petitioner and to the Hon. Grady  
14 J. Leupold.

15 Dated this 13th day of August, 2024.

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18 Tiffany M. Cartwright  
19 United States District Judge  
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